

Internal Revenue Service

Department of the Treasury

District
Director

915 Second Ave., Seattle, Wash. 98174

Person to Contact:

Telephone Number:

Refer Reply to:

EO Desk Officer

Date:

DEC 02 1985

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, and have determined that you do not qualify.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

In order for an organization to qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Code of 1954, it must be both organized and operated exclusively for any one or more of the purposes set forth in that section of the law.

Your application and Articles of Incorporation state your purposes are to provide a forum for writers, photographers and artists by publishing and distributing for sale, quality fiction, poetry, photography and art work in a literary magazine called the [REDACTED] and in similar small format publications such as chapbooks.

Your sources of support, in order of magnitude, are projected to be coming from subscriptions, copy purchases, personal support and grants.

Your application states you will be providing some fiction awards to qualified individuals. In order to qualify, individuals may be asked to subscribe or purchase back issues.

Section 501(c)(3) of the Code provides, in part, that corporations organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual; no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1(d)(2) defines the term "charitable" as including relief of the poor and distressed or of the underprivileged, advancement of religion, advancement of education or science, erection or maintenance of public buildings, monuments, or works, lessening the burdens of government, and promotion of social welfare.

[REDACTED]

Section 1.501(c)(3)-1(d)(3)(i) provides that the term education includes the instruction of the public on subjects useful to the individual and beneficial to the community. The publication of printed material may be educational if: a) the content of the publication is educational, b) the preparation of material follows methods generally accepted as educational in character, c) the distribution of materials is necessary or valuable in achieving the organization's educational purposes, and d) the manner in which the distribution is accomplished is distinguishable from ordinary commercial publishing practices.

Because the content of your publication is not educational and it is published on a subscription basis, comparable to ordinary commercial publishing practices, it is our determination that your operations do not fall within the provisions of section 501(c)(3) of the I.R.C.

Until such time as you establish your exempt status for Federal income tax purposes, contributions made to you are not deductible by the donors on their individual tax returns.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, of the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

-3-

[REDACTED]

As provided by section 6104(c) of the Internal Revenue Code of 1954 and the applicable regulations, the appropriate State officials are being notified of our determination.

Sincerely yours,

[REDACTED]

~~District~~ Director

Enclosures:
Publication 892
Form 6018
Envelope

[REDACTED]